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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,903	02/08/2001	James Brunner	10711/4	6597

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EXAMINER

LABAZE, EDWYN

ART UNIT PAPER NUMBER

2876

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/779,903

Applicant(s)

BRUNNER, JAMES

Examiner

EDWYN LABAZE

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 and 56-65 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) 22-33, 36, 38, 40, 41, 43-52 and 56-65 is/are allowed.
6) ☒ Claim(s) 1-21, 34, 35, 37, 39 and 42 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Receipt is acknowledged of amendments filed on 1/26/2005.
2. Claims 1-52 and 56-65 are presented for examination.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-8, 34-35, and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Klein et al. (U.S. 6,558,490).

Re claims 1, 3-4, 34: Klein et al. discloses method for applying labels to products, which includes a web [herein described as a web manipulation 12 comprising of a supply web 38] of a substrate [or label 150] that moves along a first direction (col.6, lines 1-37), and a dispensing system comprising a planar area [herein interpreted by the conveyor 202] that moves parallel to the first direction [from left-to-right] and below the web 38, wherein the web moves substantially independently [herein disclosed as moving from right to left; col.5, lines 60+] of the planar area and the web lies upon the planar area 202 (see figs. # 4A-4D, 6; col.9, lines 24+); and an applicator 212 that places a label 218 upon a portion of the web 216 that lies above the planar area 202 (col.9, lines 20+). Klein et al. further teaches a moving conveyor belt 202 that defines the planar area (col.9, lines 21+)

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Re claims 2, 7, and 35: Klein et al. teaches a system, further comprising a pressing apparatus that presses the label onto the portion of the web so as to attach the label to the portion of the web, wherein the pressing apparatus comprises a roller 154 that presses the label unto the portion of the web (col.6, lines 40+).

Re claims 5-6, and 37: Klein et al. discloses a system, wherein the web and the planar area 202 move at the substantially the same speed while the label is being pressed by the pressing apparatus onto the portion of said web 38 (col.7, lines 10+).

Re claim 8: Klein et al. teaches a system, wherein the pressing apparatus comprises a second roller 242 that lies opposed to the first roller, and the web 38 and the planar portion lie between the first and second rollers 242 (col.9, lines 40+).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9-15, 39, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (U.S. 6,558,490) in view of Chamberlain et al. (U.S. 5,614,278).

The teachings of Klein et al. have been discussed above.

Klein et al. fails to disclose a security element printed on the label, wherein the security element comprises a soft magnetic material with an electro-magnetically operating circuit.

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Chamberlain et al. teaches a strip of separable labels having a display surface for display of information thereon, which includes labels with security elements (col.8, lines 38+), wherein the security label includes a magnetically soft material (col.12, lines 58-60), an electro-magnetically operating oscillating circuit (col.13, lines 11-18), wherein the label includes an adhesive layer (col.6, lines 2+) which contains a first surface that adhesively engages the security element and a second element that adhesively engages a portion of the web (col.14, lines 28-49), wherein the label is attached to a second web prior to being placed on a portion of the web (col.14, lines 43-49).

In view of Chamberlain et al.'s teaching, it would have been obvious to artisan of ordinary skill in the art at the time invention was made to integrate into the teachings of Klein et al. security elements [such as soft magnetic material with an electro-magnetically operating circuit] during the manufacturing of labels to prevent and detect theft and identification of the protected articles. Furthermore, the security element is used to that it emits a characteristic signal, which is detected by a detecting device and evaluated as an identification signal for merchandises/articles passing the monitoring on an unauthorized manner. Security elements can be placed under the labels to excite electro-magnetically or acoustically or by radio frequencies. Moreover, such modification would have been an obvious extension as taught by Klein et al., and therefore an obvious expedient.

Re claim 15: Klein et al. discloses a peeler plate 220 that separates the second web from the label (col.9, lines 39+).

7. Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein et al. (U.S. 6,558,490) in view of barber et al. (U.S. 4,183,779).

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The teachings of Klein et al. have been discussed above.

Klein et al. fails to disclose a label comprising of indicia, alphanumeric, barcode.

Barber et al. discloses automatic indicia applying apparatus, which includes indicia (col.5, lines 21-24), alphanumeric characters (col.3, lines 29-38 and col.30, lines 17+), and barcode (col.13, lines 22-37).

In view of Barber et al.'s teaching, it would have been obvious to artisan of ordinary skill in the art at the time invention was made to employ into the teachings of Klein et al. a label with an indicia, alphanumeric, and barcode so as to identify the product onto which the label is applied thereto. Furthermore, label with indicia, alphanumeric and barcode has been used in the field/art for product's identification, wherein the barcode contains all the information (manufacturer, date, pricing, location of the product, and the like) of said product. Moreover, such modification would have been an obvious extension of the teaching of Klein et al., therefore an obvious expedient.

Allowable Subject Matter

8. Claims 22-33, 36, 38, 40-41, 43-52, and 56-65 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record, Klein et al., taken alone or in combination with any other references fails to teach a second applicator and means of placing a second label onto the label located on the portion of the web so as to attach the second label to the (prior) label, and means of controlling the speed while the second label is being pressed onto the label located on the portion of the web, and means controlling the linear speed of the web along the first direction relative to the linear

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speed of the planar portion parallel to the first direction so as to diminish the risk that the web becomes skewed during the pressing. These limitations in conjunction with other limitations in the claimed invention were not shown by the prior art of record.

Response to Arguments

10. Applicant's arguments with respect to claims 1-52 and 56-65 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Anderson (U.S. 4,294,644) discloses servo control labeler.

Matsuguchi (U.S. 4,585,505) teaches pressure sensitive label application device.

Kuhn et al. (U.S. 6,634,401) discloses tape applicator and methods of applying tape to a surface.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395.

The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

el
Edwyn Labaze
Patent Examiner
Art Unit 2876
April 4, 2005



THIEN M. LE
PRIMARY EXAMINER